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ABSTRACT

This document presents a historical review of the relationship between higher education and the government. Five less publicized reasons stated by former generations of college presidents in their opposition to federal funding are indicated to provide a perspective from which to review Title IX of the Education Amendments of 1972. It is suggested that Congress be requested to declare a moratorium on any implementation of Title IX, and refrain from enacting any new regulations governing higher education until a through and honest review can be completed that evaluates the present techniques of federal support and their actual impact upon the educational enterprise. (Author/MJM)

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Principles in Default

Remarks by Dr. John A. Howard,
President of Rockford College
at the Annual Meeting of the
American Association of Presidents of Independent Colleges and Universities
December 6, 1974
French Lick, Indiana

"The ways of freedom are often slower than those of despotism, but most Americans, I submit, still prefer freedom to despotism, however benevolent." -- The Very Reverend Vincent Flynn.

Sometimes it is helpful when dealing with a complex and emotion-laden issue to back off from the specific points of concern and try to view the matter in the context of basic purposes and basic principles. Let me attempt such an overview with regard to the government's programs to enforce equal opportunity on the campuses.

There has been a generally accepted recognition that it would be unwise in our country to commingle the responsibilities of church and state. This principle derives from the fact that the two have separate functions to perform, and that neither should have control over the other to such an extent that force could be used to require the functions of the one to accomplish the chosen purposes of the other. This separation essentially frees both to be operated according to the judgments of people selected for their competence in their respective fields. The separation has a subordinate virtue of permitting either one to use its own techniques for discouraging flagrant error on the part of the other. For example, one would expect government to prevent the burning at the stake of even the most thoroughly authenticated witches. That kind of intervention is, however, something far removed from government's prescribing the qualifications for becoming a clergyman or trying to influence the subject of the sermon or the amount of money spent for hymnals.

There is, I believe, an equally compelling need to maintain a separation of education and government, a need that derives from the same justification. Education and government have separate functions to perform. Government's work is to regulate, adjudicate, and protect the citizens in those activities which, through properly authorized procedures, have been judged to be necessary for the good of the society. Education's role is to inform and activate the intellectual and aesthetic powers of man so that he may dream, probe, invent, compare, judge, challenge and create -- to the end that knowledge shall prevail over ignorance, wisdom prevail over folly, and humaneness prevail over savagery. The people who are trained and competent in government can scarcely be expected to have the expertise to make proper judgments to guide education, and vice versa. Education cannot prosper in a society if it is operated by amateurs, and neither can government.

In the case of the separation of education and government, there has been no traditional axiom comparable to the separation of church and state. I would suppose that that lacuna reflects an enduring assumption that the fundamental requirements of academic freedom have been so clear and would always be so fiercely guarded it was unthinkable that government would ever usurp the prerogatives of academic decision-making. At all events, the recognition that education needed to be free of government domination was almost universal among American educators until seventeen years ago.

In 1945, the Problems and Policies Committee of the American Council on Education, and the Educational Policies Committee of the National Education Association met in an unprecedented joint session to consider a matter of the gravest concern to both. From that meeting issued a statement of alarm. I quote the opening paragraphs:

> The first purpose of this document is to warn the American people of an insidious and ominous trend in the control and management of education in the United States.
>
> For more than a quarter of a century, and especially during the last decade, education in the United States, like a ship caught in a powerful tide, has drifted ever further into the dangerous waters of federal control and domination.
>
> This drift has continued at an accelerated pace dur-

ing the war. Present signs indicate that unless it is sharply checked by an alert citizenry, it will continue even more rapidly after the war.

It is the deliberate and reasoned judgment of the two educational commissions who join in the appeal which this document makes to the people of the United States that the trend toward the federalizing of education is one of the most dangerous of the current scene.

I ask you to remember that that warning cry emanated from the policy committees of NEA and ACE. Their fears of pressure in behalf of government funding were, of course, confirmed by events that followed. President Truman in the late forties pressed hard for legislation to provide federal aid to education. College presidents across the nation were rallied under the leadership of Carleton College's President Emeritus Donald Cowling, sending strongly worded messages to Congressman Graham Barden, Chairman of the House Subcommittee on Education.

Northwestern's President Franklyn Snyder wired Mr. Barden, "I sincerely hope that neither HR 4643 nor HR 4711 will be approved by your committee . . The American educational system . . has been built on the principles of local autonomy and local responsibility. No need has yet arisen which justifies discarding these principles." The Very Rev. Vincent Flynn, President of St. Thomas College, wrote the Congressman, "None of our institutions in America is perfect . . We wish them all improved, but not by any means whatever . . Least of all, in my opinion, do we wish our educational system improved by means inherently dangerous. Far better for it to struggle along with its imperfections, gradually improving as its constituents grow in wisdom, than to have it immediately raised to standards set by federal authority. The ways of freedom are often slower than those of despotism, but most Americans, I submit, still prefer freedom to any despotism, however benevolent." Florence Read, President of Spelman College, wrote "To have permanent federal support for education on any level would, in my judgment, tend toward dictatorship by a bureaucracy which would endanger the freedom and growth of all individuals in this country. There could hardly be anything worse than an imposed system of education without regard to differences in community conditions."

And so the messages poured in from the presidents of Columbia University, Brown University, Elon College, Fulton College, Yankton College, Union College, and a host of others, and the legislation was defeated. Grinnell's President Samuel Stevens then wrote Dr. Cowling, "We may have succeeded this time in stopping this most unwise development, but I am of the opinion that unrelenting vigilance will be required. One member of the . . lobby said to me, 'You may stop us now, but we are not going to be finally denied.' "

The historic belief among educators that general governmental funding would compromise education held relatively firm until October 4, 1957. Sputnik Number One sent a chill into the hearts of all Americans with the realization that Russia had outdistanced us in space technology. As a result of that scare, even the educators were suddenly, if reluctantly, willing to grant new powers to the government, overriding the historic and well-reasoned objections to federal funding of education. The National Defense Education Act of 1958 put into being vast new programs that embraced under the label of "defense" activities that certainly stretched the meaning of the word.

The wall of principle was broken and a new era arrived. Each group began to press its case for federal subsidy. As Homer Babbidge and Robert Rosenzweig wrote in their 1962 book, The Federal Interest In Higher Education, "There is a kind of tacit understanding among the several organizations in American higher education that no one of them will openly object to federal benefits directed toward another group . . Where one educational association can support legislation that will benefit another, it does; where it cannot support such legislation, it at least remains silent." Even in 1962, however, there was still a residue of concern for principles and for sound public policy that had thus far blocked legislation to subsidize building construction. Quoting again from the Babbidge Book, "Another obstacle in the construction-legislation affair that offers insight into a broader problem was the fact that educators assembled could not resist the instinct to speak as statesmen. That may sound cynical, but the fact of the matter is that the very same educators who attested to their need for and interest in federal assistance when they responded to the aforementioned questionnaire were those who undermined their common interest by questioning its wisdom in the context of public policy. When they debated the possibility of aid to higher education, they were not content to describe their needs and the most effective manner of meeting them; instead they took on the larger issue, whether it would constitute sound public policy to meet these needs . . What the Executive Secretaries (of the national organizations) did not do was to attract attention to the issues involved. Their years in Washington had taught them what others may not have understood so clearly, that effective pursuit of one's interests often involves finding ways to avoid broader issues that serve to obstruct action, and never involves raising such issues gratuitiously."

Well, as you know, the Executive Secretaries won out. Principles and issues were subordinated to self interest. The people who still objected to federal funding were to some extent placated by protective language written into the funding legislation. Typical of this presumed safeguard was section 102 of the National Defense Education Act which states, "Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system."

Those few educators who still persisted in their concern were subject to mockery. Turning once more to Babbidge and Rosenzweig, ". . .The argument seems to

suggest that no limits can be placed upon a federal-institutional relationship once begun, that a first kiss leads inexorably to the total surrender of virtue. A terribly Victorian view, to say the least. In the view of those who take this position and make this use of the federal-control issue, institutions are helpless to resist the encroachments of government. The autonomy of higher education is threatened by 'creeping' federal aid and 'insidious' federal envelopment. The lurid manner in which the inevitability of all this is described has led to its being dubbed the 'parade of horrors' argument."

Unfortunately, many of the proponents of federal funding were skilled in directing public discussions of the federal aid issue to those arguments they could turn aside with such derision. I think it may be useful to remind ourselves of some of the less publicized reasons stated by former generations of college presidents in their opposition to federal funding, and note briefly what has happened in each case.

1. Given the separation of church and state, there was a fear that as state moved into education, church would be obliged to move out. In the Maryland Case, as you may know, the State Supreme Court found that several of the colleges being subsidized by the state were so closely affiliated with their churches that it was unconstitutional to provide them with government funds. Thereafter the question became how much church did a college have to get rid of in order to receive government funding. It may have been coincidental, but shortly thereafter a number of church-related institutions reconstituted their boards of trustees, markedly diminishing the number of clergy who served as trustees. In the succeeding years, as we know, the role of religion on many campuses has diminished greatly.

2. There was a fear expressed that when education became dependent upon federal funding, the educational profession would become a political captive, forced to support whichever candidates were likely to vote for the most federal subsidy. In 1972, the NEA put major emphasis on the re-election of Senator Clayborn Pell, the federal aid enthusiast who serves as chairman of the Senate Subcommittee on Education. After the election, Senator Pell was quoted as saying, "My election is a victory for teacher power. Before the teachers began to help me, I was a two-to-one underdog." Encouraged by their success in 1972, the NEA, I understand, worked in behalf of quite a number of "friends of education" in the 1974 elections.

One other aspect of the political captivity hazard is the question of whether educational institutions having become dependent upon the flow of Federal money, might diminish their resistance to damaging legislation or mute their objections to inappropriate regulatory control. Certainly educators' arguments against objectionable provisions of the 1969 Tax Reform Act and other recent legislation have not achieved the intensity nor the public clamor that characterized the resistance to the disclaimer affidavit of the National Defense Education Act back in the days when Federal funds were much scarcer on the campus.

3. The fear was expressed that educational institutions might forfeit the initiative in planning their own instructional and research programs, responding to those opportunities for which federal funds were available, rather than planning their programs to fulfill their own institutional purposes according to the talents and training of their own faculties and the locally determined judgments of the needs of their students. The president of one metropolitan university stated in a speech that when it was decided to add Ph.D. programs to the university offering, the first eight programs were all in science, developed with the help of federal funding. Do you suppose that left to their own resources, the faculty would have excluded the humanities and social sciences in the initial provision of doctoral programs? Other examples of the skewing of higher education resulting from the availability of Federal funds might include the great expansion of the research function and the relative decline of the teaching function of the professors, the trend toward similarity of programs and policies among the colleges, and the preoccupation with innovation in academia.

4. Another concern that was repeatedly cited is the ever multiplying cost of sustaining the bureaucracy which processes the grants. Not only must the government provide an army of clerks, accountants, secretaries, compliance officers, supervisors and lawyers to receive the requests, judge them, issue the funds, monitor and spot check the performance of the grantee, and audit the records, but the colleges, too, must pay for personnel to keep apprised of the grant opportunities, prepare the requests, keep records on the utilization of the grants, fill out the forms required by the government, provide legal counsel, etc. If higher education is short on money nowadays, think of the enormous amount of financial resources spent on the processing of grants which might otherwise be available for productive activity.

5. The one other argument I would cite is that of direct federal control, the one so condescendingly set aside by Messrs. Babbidge and Rosenzweig. Going clear back to the National Defense Education Act, one finds even in that early legislation an instance of policy imposed on the colleges and universities which would have brought instant and forceful rejection from any self-respecting college, had it been proposed by any other source of funds. That Act, among other things, provided for the establishment and the total subsidy of language institutes at institutions of higher learning where language teachers could improve their skills. The bill provided full tuition for the students who enrolled in these institutes and, in addition, a stipend for their living expenses and for each of their dependents, but the latter benefits were only available to public school teachers. Teachers in private schools were excluded. I do not believe there is a reputable college in the country that would tolerate such a double standard in any program of its own devising. And yet scores of erstwhile honorable institutions compromised their integrity on that matter in order to obtain the language institute programs from the federal government.

As you know, the early posture of government officials insisting that they would not control education through the leverage of federal subsidies faded away in the early sixties. When several of us called on Commissioner Francis Keppel to present a recommendation for using the gift tax-credit as the best means for government to aid education, if government insisted on providing aid, the Commissioner quickly responded that such a plan was out of the question because it would "prevent us from accomplishing our social objectives". He did not elaborate on what they were but it was apparent that he intended to use government funds to bend American education in the direction of government's purposes. By April of 1966, such comments from government officials were no longer confined to office discussions. Commissioner Harold Howe gave an address at the New Jersey Conference on Education, entitled "Who's In Charge here?" He stated, "Your state government pays only 21% of the cost of education in New Jersey. By that index, it ranks 46th in the nation. What does that mean? It means that your state has relatively little control over education ... In spite of the fact that extending state prerogatives would diminish local freedom, I support that extension."

And now, we are faced with the ultimate in governmental usurpation of the control of education – the dictation and supervision by the federal government of policies which have the effect of preventing the college from appointing and promoting its faculty according to their academic competence. Through the Affirmative Action program, education is now being forced to subordinate its own proper purposes and functions to the purposes and functions of the government. The separation of education and government has now collapsed.

The grave distortions of the educational enterprise which have resulted from this regrettable circumstance are being publicly recited with increasing frequency. George Roche's book, The Balancing Act, presents perhaps the most comprehensive survey of the problem. On October 10, Estelle Fishbein, the Special Assistant Attorney General for the University of Maryland, presented at the annual meeting of the American Council of Education, a lawyer's view of the price paid by a university for its subjugation to Affirmative Action. Among the points she listed were, and I am paraphrasing:

1. The laws, statutes and executive orders pertaining to equal employment opportunity are so numerous and so broadly stated that legal counsel is becoming involved in institutional decision-making to an unprecedented extent.

2. The compliance officers of the government much too often seem to measure equal employment opportunity progress solely with reference to numbers. There is, after all, no government agency which is charged with measuring progress toward academic excellence. Often the government investigator is unqualified to delve into academic affairs and make a knowledgeable and reasoned judgment of the facts presented to him.

3. The legal hazards flowing from a failure to comply with these laws include the possibility of the loss of government contracts and of being named as a defendant in litigation undertaken both by members of the groups intended to be protected by the legislation and by individuals who perceive themselves to be victims of reverse discrimination.

4. In their fear of not meeting the government's requirements, institutions are bidding frantically against each other and may offer salary or rank, or both, vastly disproportionate to the candidate's credentials, just to appease the government investigators.

5. Blatantly favored treatment of a woman or a minority member is practically guaranteed to impair morale of other faculty members.

6. In their present mode of organization, the Equal Employment Opportunity Commission and the Department of Health, Education and Welfare simultaneously act in the roles of prosecutor and judge. This duality defies the most basic tenets of American judicial philosophy. Furthermore, the agencies charged with enforcing anti-discrimination laws are not neutral fact-gatherers. EEOC, for example, is frank to admit it considers itself an advocate of the complainant.

7. University administrators and faculty members who have responsibility for hiring, admit feeling intimidated with regard to personnel decisions, for in state universities the individuals responsible for hiring are personally subject to legal action seeking monetary damages in cases alleging discrimination.

8. The amount of time, money and talent that must be diverted from the academic mission in order to deal with these matters is substantial.

If you have not seen Attorney Fishbein's paper, I urge you to study it.

Let us register on a proposed new extension of government's forthright control of education. Recently Senators Javits and Kennedy introduced legislation designed to force every fledgling doctor who graduates from a medical school that uses federal funds to begin his or her medical practice in areas designated by the government. Concerned about the unequal distribution of doctors, the proponents of the bill have judged that since the government pays for a large part of the medical training, the government has a right or an obligation to make sure that all the citizens get their proper return on that investment of their tax funds. If that rationale should prevail, then the leverage of federal subsidy will have reached beyond the campus into the working lives of the graduates, an extension of federal control far beyond the most extravagantly fearful projections of the "parade of horrors" people who were scoffed at by Babbidge and Rosenzweig.

Returning now to the matter which prompts this analysis, we have just heard a presentation by Miss Gwendolyn Gregory who has major responsibility in the Department of HEW for drafting the terms of the regulations governing sex discrimination under Title IX of the Education Amendments of 1972. She has reported to us what

our government proposes to permit us to do and to forbid us to do with regard to hiring of our personnel, admissions, scholarships and financial aid, counselling services, physical education courses, dormitory regulations, honorary societies, athletics, and fraternities and sororities. It has been an enlightening experience to hear the representative of our government speaking with the presumption of full authority over certain aspects of our entire educational undertaking. An enlightening experience and, for college executives who believe in the separation of government and education, a frightening experience.

Well, what is the purpose of this historical review of the relationship between higher education and the government? It is to give us perspective on our response to this newest massive intervention in our proper and once discrete areas of responsibility and judgment. I suggest that we not attempt merely to negotiate a less burdensome implementation of a governmental action which is fundamentally erroneous in its concept and devastating in its consequences. This is the mistake education has so often made in the past. It is time for us to face directly and forthrightly the issue which is really at stake.

The Swiss philosopher Amiel observed, "Truth is violated by falsehood, but it is outraged by silence". Let us rescue truth from outrage. The fact is that the loss of autonomy predicted by Northwestern's President Snyder, the creation of a federal despotism predicted by St. Thomas's President Flynn, the dictatorship of a bureaucracy which threatens the freedom of all citizens predicted by Spelman's President Read have all come to pass. The National Defense Education Act ban on federal control has been nullified. The alarm expressed by the commissions of the National Education Association and the American Council on Education has been fully justified.

I suggest we request the President of the United States and the Congress to acknowledge that a terrible mistake has been made, that the provision of federal subsidy to higher education in the manner which has evolved is restricting and homogenizing and stultifying and warping the educational process to such a degree that the integrity and vitality and productivity of our educational institutions are gravely compromised. I suggest we request the Congress to declare a moratorium on any implementation of Title IX, and refrain from enacting any new regulations governing higher education until a thorough and honest review can be completed which evaluates the present techniques of federal support and their actual impact upon the educational enterprise.

The separation of education and government is so absolutely essential to the well-being of a free society, that it behooves the Congress to examine the tuition voucher plan, the tax credit for gifts to educational institutions, and any other options that can be devised which would protect the integrity and the autonomy of the colleges and which might be put into operation, gradually substituting for and phasing out those programs of grants which have proved to be the basis for the governmental dominion over education.

That it should fall to our particular Association to assume the leadership in this call for a re-evaluation is most fitting, for our central purpose has consistently been to protect the independence of private colleges, and independence is clearly what is at issue. In this case, of course, it is the independence of all colleges and universities, public and private, which has been circumscribed.

Let me conclude these remarks by a reminder of another prediction which bears on our present concern, one that was directed at the private colleges. Seven years ago, Alan Pifer, President of the Carnegie Corporation, in his address at the annual meeting of the Association of American Colleges asserted, "The financing of higher education will, like the support of agriculture, more and more come to be regarded as a federal responsibility." He went on to suggest that the government should set standards of efficiency and productivity, and it should make judgments about which educational institutions are worthy of support, rather than distribute funds according to some general formula. Finally, he foresaw the ultimate elimination of any significant distinction between public and private colleges.

His first forecast is, I believe, on its way to being fulfilled. Certainly the fate of American higher education is just as regrettably vulnerable to the ebb and flow of government's purposes and judgments as is the fate of American agriculture. Whether the private colleges shall ultimately coalesce into a common glob with their public brethren, funded and directed from Washington according to Washington's judgments of each institution's merits, may well depend upon how much understanding, wisdom and courage we can summon at this meeting, and how we choose to respond to our present circumstances.

Additional copies of this address may be obtained by writing the Office of the President, Rockford College, Rockford, Illinois 61101.